

Reg. 2.309 Temporary Variance Proposed Revisions after Stakeholder Meeting #1

Redline of revisions

Reg. 2.309 Water Quality Standards Temporary Variance

~~A water quality standards temporary variance is a time-limited designated use and criteria for a specific pollutant(s) or water quality parameter(s) that reflects the highest attainable condition of a waterbody or waterbody segment during the term of the water quality standards temporary variance. A temporary variance to the water quality standards may be allowed for an existing permitted discharge facility. The variance will be for specified constituents and shall be no longer than a three year period. A water quality standards temporary variance may be adopted for a permittee(s) or waterbody/waterbody segment(s), but only applies to the permittee(s) or waterbody/waterbody segment(s) specified in the water quality standards temporary variance.~~

~~A water quality standards temporary variance shall be developed in accordance with and meet the requirements of 40 C.F.R. §131.14 and must be approved by the Arkansas Pollution Control and Ecology Commission and the United States Environmental Protection Agency. A variance will be considered when it is determined that a standard, including designated use, can ultimately be attained or when preliminary evidence indicates that a site specific amendment of the standards may be appropriate. The term of a water quality standards temporary variance must only be as long as necessary to achieve the highest attainable condition and consistent with supporting documentation. Water quality standards Temporary variances with a term of greater than five (5) years must specify a frequency to reevaluate the highest attainable conditions using all existing and readily available information. Such reevaluations must occur no less frequently than every five (5) years.~~

~~The time-limited designated use and criteria associated with the water quality standards temporary variance do not replace the underlying waterbody designated use and criteria. Additionally, all other applicable water quality standards not specifically addressed by the variance remain applicable. A variance may be granted only to the applicant and will not apply to other discharges into the specified waterbody.~~

Justifications

Revision: Insert “Water Quality Standards” into title.

Justification: There are “Temporary Variances” for other things in other regulations. We wanted to ensure this was clear it was only for water quality standards.

Revision: Insert “A water quality standards temporary variance is a time-limited designated use and criteria for a specific pollutant(s) or water quality parameter(s) that reflects the highest attainable condition of a waterbody or waterbody segment during the term of the water quality standards temporary variance.”

Justification: Describes what a water quality standards temporary variance is.

Revision: Strike “A temporary variance to the water quality standards may be allowed for an existing permitted discharge facility.”

Justification: This language is replaced with more specific language that references 40 CFR at the end of the paragraph.

Revision: Strike “The variance will be for specified constituents and shall be no longer than a three year period.”

Justification: This language is replaced in the next paragraph with language that more appropriately reflects the updated 40 CFR language and time

Revision: Insert “A water quality standards temporary variance may be adopted for a permittee(s) or waterbody/waterbody segment(s), but only applies to the permittee(s) or waterbody/waterbody segment(s) specified in the water quality standards temporary variance.”

Justification: This language mirrors 40 CFR §131.14(a)(1) and clarifies applicability for a WQS temporary variance.

Revision: Revise as “A water quality standards temporary variance shall be developed in accordance with and meet the requirements of 40 C.F.R. §131.14 and must be approved by the Arkansas Pollution Control and Ecology Commission and the United States Environmental Protection Agency.”

Justification: This revision incorporates 40 C.F.R. §131.14 by reference.

Revision: Strike “A variance will be considered when it is determined that a standard, including designated use, can ultimately be attained or when preliminary evidence indicates that a site specific amendment of the standards may be appropriate.”

Justification: This language is no longer necessary with the additional revisions within this section and may be confusing or contradictory if left in.

Revision: Insert “The term of a water quality standards temporary variance must only be as long as necessary to achieve the highest attainable condition and consistent with supporting documentation. Water quality standards temporary variances with a term of greater than five (5) years must specify a frequency to reevaluate the highest attainable conditions using all existing and readily available information. Such reevaluations must occur no less frequently than every five (5) years.”

Justification: This revision maintains consistency with 40 C.F.R. §131.14.

Revision: Insert “The time-limited designated use and criteria associated with the water quality standards temporary variance do not replace the underlying waterbody designated use and criteria. Additionally, all other applicable water quality standards not specifically addressed by the variance remain applicable.”

Justification: This language mirrors 40 C.F.R. §131.14.

Revision: Strike “A variance may be granted only to the applicant and will not apply to other discharges into the specified waterbody.”

Justification: This language is no longer necessary given previous revisions in the Reg.

How it will look with changes accepted

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A water quality standards temporary variance is a time-limited designated use and criteria for a specific pollutant(s) or water quality parameter(s) that reflects the highest attainable condition of a waterbody or waterbody segment during the term of the water quality standards temporary variance. A water quality standards temporary variance may be adopted for a permittee(s) or waterbody/waterbody segment(s), but only applies to the permittee(s) or waterbody/waterbody segment(s) specified in the water quality standards temporary variance.

A water quality standards temporary variance shall be developed in accordance with and meet the requirements of 40 C.F.R. §131.14 and must be approved by the Arkansas Pollution Control and Ecology Commission and the United States Environmental Protection Agency. The term of a water quality standards temporary variance must only be as long as necessary to achieve the highest attainable condition and consistent with supporting documentation. Water quality standards temporary variances with a term of greater than five (5) years must specify a frequency to reevaluate the highest attainable conditions using all existing and readily available information. Such reevaluations must occur no less frequently than every five (5) years.

The time-limited designated use and criteria associated with the water quality standards temporary variance do not replace the underlying waterbody designated use and criteria. Additionally, all other applicable water quality standards not specifically addressed by the variance remain applicable.